

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1256 OF 2006
IN
CRIMINAL APPEAL NO. 1193 OF 2006.

1. Maim Mehboob Pasha
2. Lalu @ Lavya Aambadas Ingle
3. Suresh @ Surya Manaji Narbire ..Applicants.
V/s
State of Maharashtra ..Respondent.

Smt. Anjali Patil, Advocate for the applicants.
Mr. D.P. Adsule, A.P.P. for the respondent.

CORAM : J.H. BHATIA, J.

DATE : 15TH JANUARY, 2007.

P.C.

. Heard Mrs. Anjali Patil, learned Counsel for the applicants and Mr. Adsule, learned A.P.P. for the State.

2. The applicant Nos. 1 to 3 are accused Nos. 1 to 3 respectively. Applicant Nos 2 and 3 were convicted for the offence punishable under Section 376(2)(g) of Indian Penal Code i.e. gang rape and were sentenced to undergo R.I. for 10 years and to pay fine of Rs. 5000/- each and in default to undergo R.I. for one year. Applicant No.1 was convicted for the offence

punishable under Section 366 of I.P.C. and 376(2)(g) r/w 109 of I.P.C. for abatement of commission of gang rape and was sentenced to undergo R.I. for 5 years and 10 years with some fine respectively and all of them were convicted for the offence punishable under section 506(2) r/w section 34 of Indian Penal Code and were sentenced to undergo R.I. for 5 years and to pay fine of Rs. 1000/-. The applicants have preferred Criminal Appeal No. 1193/2006. The appeal is already admitted. By this application the applicants seek to be released on bail.

3. Mrs. Patil has taken me through the contents of FIR, oral evidence of the prosecutrix, as well as the medical evidence. She also pointed out that the applicants were on bail during the trial and there is no allegations of misuse of the bail. On the other hand, Mr. Adusle contended that it is the matter of gang rape wherein the accused are sentenced to undergo R.I. for 10 years and therefore, it will not be in the interest of justice to grant bail to them pending hearing and final disposal of the appeal.

4. The record reveals that there was delay of one

month in lodging the F.I.R.. The report was lodged on 31/5/2005 and on next day the prosecutrix was medically examined and found pregenant for minimum 6 weeks, 4 days. Admittedly, DNA test was not held. Taking into consideration these circumstances and the fact that the applicants did not misuse the bail, I am inclined to grant bail to the applicants.

5. Pending hearing and final disposal of the appeal the applicants are granted bail on same terms and conditions as before the trial Court subject to executing fresh bail bonds and depositing the fine amount. They shall not misuse the bail.

(J.H. BHATIA, J.)